



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-3503 FAX (603) 271-2867



June 5, 2003

Hutchinson Sealing Systems, Inc.  
Attn: Robert Nadeau  
PO Box 169  
Newfields, NH 03856-0169

Re: Docket No. AF 01-136 - Administrative Fine by Consent Agreement

Dear Mr. Nadeau:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in this matter executed by Philip J. O'Brien, Ph.D., Director, Waste Management Division, and accepted by Commissioner Michael P. Nolin on June 5, 2003. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

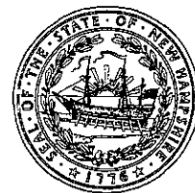
  
Michael Scialani,  
Legal Assistant

cc: Philip J. O'Brien, Ph.D., Director, Waste Management Division  
Gretchen Rule, DES Legal Unit  
Susan Weiss Alexant, Hearings and Rules Attorney  
Mark R. Harbaugh, DES Legal Unit  
Linda Birmingham DES HW



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

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Hutchinson Sealing Systems, Inc.  
P.O. Box 169  
Newfields, NH 03856-0169

ADMINISTRATIVE FINE  
BY CONSENT

No. AF 01-136

**I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Hutchinson Sealing Systems, Inc., pursuant to RSA 147-A:17-a. This Administrative Fine by Consent ("Agreement") is effective upon signature by all parties.

**II. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its main office at 6 Hazen Drive, Concord, NH.
2. Hutchinson Sealing Systems, Inc. ("Hutchinson") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on February 17, 2000. Hutchinson has a mailing address of P.O. Box 169, Newfields, NH.

**III. BACKGROUND**

1. Pursuant to RSA 147-A, DES regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. Hutchinson is a hazardous waste generator that subsequently notified the United States Environmental Protection Agency ("EPA") of its activities through DES on February 2, 2000. EPA Identification Number NHD001088624 was assigned to Hutchinson's facility located at 171 Route 85, Newfields, NH.

4. On April 9, 2001, DES personnel inspected Hutchinson for compliance with RSA 147-A and its implementing regulations, the Hazardous Waste Rules. As a result of the inspection, DES issued a Notice of Findings ("NOF") to Hutchinson on June 8, 2001 and Letter of Deficiency No. WMD 01-22 ("LOD") to Hutchinson on October 22, 2001.

#### **IV. ALLEGATIONS, ADMINISTRATIVE FINES**

1. Specifically, the LOD alleged that Hutchinson failed to conduct adequate hazardous waste determinations on thirteen (13) waste streams, as required by Env-Wm 502.01 ("Violation 1"). Env-C 612.05(a) authorizes a fine of \$1,500 per determination, for a potential fine of \$19,500.
2. Specifically, the LOD alleged that Hutchinson failed to close three (3) 55-gallon and three (3) 5-gallon containers of hazardous waste, as required by Env-Wm 507.01(a)(3) ("Violation 2"). Env-C 612.06(c)(1) authorizes a fine of \$400 for each container that is 55-gallons or greater and Env-C 612.06(c)(3) authorizes a fine of \$100 for each container that is 5-gallons or less, for a potential fine of \$1,500.
3. Specifically, the LOD alleged that Hutchinson failed to ship four (4) containers of hazardous waste off-site within a period of 90 days or less, as required by Env-Wm 507.02(a) ("Violation 3"). Env-612.06(j) authorizes a fine of \$500 for each container not shipped within 90 days, for a potential fine of \$2,000.
4. Specifically, the LOD alleged that Hutchinson failed to mark eight (8) 55-gallon and three (3) 5-gallon containers of hazardous waste with the beginning accumulation date, as required by Env-Wm 507.03(a)(1)a. ("Violation 4"). Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater and \$125 for each container that is less than 55-gallons, for a potential fine of \$2,375.
5. Specifically, the LOD alleged that Hutchinson failed to mark three (3) 5-gallon containers of hazardous waste with the words "Hazardous Waste"; words that identify the container contents; and the EPA or state waste number, as required by Env-Wm 507.03(a)(1)b., c., and d. ("Violation 5"). Env-C 612.06(l) authorizes a fine of \$300 for each container that is less than 55-gallons, for a potential fine of \$900.
6. Specifically, the LOD alleged that Hutchinson failed to perform one (1) year of annual hazardous waste training for one (1) person (Paul MacDonald, 1<sup>st</sup> shift primary emergency coordinator) with hazardous waste management duties, as required by Env-Wm 509.02(a)(2) ("Violation 6"). Env-C 612.07(b) authorizes a fine of \$1,000 per individual for annual training, for a potential fine of \$1,000.
7. Specifically, the LOD alleged that Hutchinson failed to place "No Smoking" signs wherever there is a hazard from ignitable or reactive waste at one (1) hazardous waste storage area, as required by Env-Wm 509.02(a)(3) ("Violation 7"). Env-C 612.07(c) authorizes a fine of \$2,000 per storage area, for a potential fine of \$2,000.

8. Specifically, the LOD alleged that Hutchinson failed to maintain adequate aisle space for containers at one (1) hazardous waste storage area and failed to have required equipment at three (3) hazardous waste storage areas, as required by Env-Wm 509.02(a)(4) ("Violation 8"). Env-C 612.07(d) authorizes a fine of \$1,250 per requirement not met per storage area, for a potential fine of \$5,000.
9. Specifically, the LOD alleged that Hutchinson failed to post complete emergency postings at the nearest telephone to four (4) hazardous waste storage areas, as required by Env-Wm 509.02(b) ("Violation 9"). Env-C 612.07(h) authorizes a fine of \$1,000 per storage area, for a potential fine of \$4,000.
10. Specifically, the LOD alleged that Hutchinson failed to maintain five (5) satellite storage areas "at or near the point of generation and under the control of the operator generating the wastes", as required by Env-Wm 509.03 ("Violation 10"). Env-C 612.07(j) authorizes a fine of \$1,000 per storage area, for a potential fine of \$5,000.

#### **V. PAYMENT, WAIVER OF HEARING**

1. Upon further review and consideration of certain information and data provided by Hutchinson, DES has determined that alleged Violations 1 through 5, and 7 through 10 have been satisfactorily resolved, and DES therefore agrees to waive fines associated with these alleged violations.
2. Hutchinson agrees to pay \$1,000 for Violation 6, which DES considers to be a Class I violation, upon execution of this Agreement by Hutchinson.
3. Payment under Section V. Paragraph 2 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit  
Attn: Michael Sclafani, Legal Assistant  
PO Box 95  
Concord, NH 03302-0095

4. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.
5. By executing this Agreement, Hutchinson waives its right to a hearing on or any appeal of the administrative fines identified in Section IV. Paragraphs 1 through 10, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.
6. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Hutchinson, and the Director of the Waste Management Division, and the Commissioner of DES.

7. Except as described in Section V. Paragraph 5 above, this Agreement shall not constitute, be construed as, or operate as: (i) an admission or evidence of liability by Hutchinson; (ii) an admission by Hutchinson or evidence that it violated any law, rule, regulation, policy or regulatory interpretation; or (iii) a waiver of any defense Hutchinson might raise in any third party proceeding.

8. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

HUTCHINSON SEALING SYSTEMS, INC.

**COPY**

By: Robert Madeau, Plant Manager  
Duly Authorized

5/23/03  
Date

DEPARTMENT OF ENVIRONMENTAL SERVICES

**COPY**

Philip J. O'Brien, Ph.D., P.G.  
Director  
Waste Management Division

5/30/03  
Date

**COPY**

Michael P. Nolin  
Commissioner  
Department of Environmental Services

06 05 03  
Date